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LETTER DATED 31 DECEMBER 1996 FROM THE PRESIDENT OF THE GOVERNING COUNCIL OF THE UNITED NATIONS COMPENSATION COMMISSION ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

I have the honour to transmit herewith, through you, for the information of the Security Council, the following details concerning the twenty-third regular session of the Governing Council of the United Nations Compensation Commission (UNCC), held at the Palais des Nations at Geneva on 16 and 17 December 1996.

At its 65th meeting, the Governing Council heard statements from the representatives of the following non-member States: Bosnia and Herzegovina, Iraq, Kuwait, Lebanon, Sudan, Thailand, the former Yugoslav Republic of Macedonia, Turkey and Yemen.

During the meeting, the Governing Council also heard a comprehensive report by the Executive Secretary, Mr. Carlos Alzamora, on the activities of the Commission (see annex I). The Council noted with appreciation that the total number of claims approved for payment would be, by the end of the session, more than US$ 1 million for a total awarded amount of $5.25 billion. Referring to the implementation of Security Council resolution 986 (1995) and its positive impact on the financial situation of the Commission, the Executive Secretary informed the Council that, on the basis of the 30 per cent revenue of the Compensation Fund, approximately $142 million could be paid to 56,000 successful claimants in categories A (individual claims for departure from Iraq or Kuwait) and C (individual claims for losses up to $100,000) in early 1997, each claimant receiving an initial payment of $2,500 on the amount awarded. Also, the availability of the necessary resources should allow that the panels of the Commissioners appointed to review claims in categories D (individual claims for losses over $100,000), E (corporate claims) and F (governmental claims) start their review of claims during the first quarter of 1997.

During its 66th meeting, the Governing Council adopted the fourth report and recommendations of the Panel of Commissioners (S/AC.26/1996/4) regarding the latest instalment of category C claims. The fourth instalment includes 71,703 claims, with a total awarded compensation of over $637 million. As a result, approximately 200,000 claims in category C have so far been awarded compensation

for a total amount of over $1.4 billion, and the Commission has completed the processing of almost half of the category C claims that it has received. As the Council has previously been informed, the processing of all claims in categories A and B has already been completed.

The Governing Council also approved the report and recommendations of the Panel of Commissioners appointed to review the well blowout control claim put forward by the Kuwait Oil Company for the cost of extinguishing oil well fires (S/AC.26/1996/5 and S/AC.26/1996/5/Annex). The Council approved the amount of $610,048,547 recommended by the Panel of Commissioners as compensation to the Kuwaiti oil sector, without prejudice to adjustments that might be reached concerning allocation of costs after the review of other related Kuwait Oil Company claims.

In addition, during its session, the Governing Council considered reports submitted by a number of Governments on the distribution of compensation awarded to successful claimants in category B. The Council agreed that further discussion was needed regarding the situation where, following the transfer of funds to the relevant Governments or international organizations, awarded compensation has not been distributed to individual claimants, for one reason or another, after a reasonable period of time has elapsed.

The Governing Council also considered a number of claims in categories B, C and E that were submitted after the relevant filing deadlines. The Council accepted for filing two individual claims for losses caused by a mine explosion, as well as one corporate claim in category E that met the criteria previously adopted by the Council for accepting late claims.

At the closing of the session, the members of the Governing Council thanked the outgoing members of the Council, and in particular the presidency, for their valuable contribution to the work of the Commission in the past two years. Finally, the Governing Council, noting that it was the last participation of the Executive Secretary, Mr. Carlos Alzamora, in a regular session of the Council, commended his dedication to this unprecedented compensation operation and conveyed the Council's high appreciation for the work performed by Mr. Alzamora and his team, and the outstanding results achieved since Mr. Alzamora's appointment in July 1991.

I avail myself of this opportunity to thank you and the members of the Security Council, for the Council's continuing interest and concern in the work of the Commission.

(Signed) Giuseppe BALDOCCI
President of the Governing Council
United Nations Compensation Commission

Annex I

Report of the Executive Secretary of the Governing Council*

1. The cloud of financial uncertainty under which this Commission has been operating all of these years has finally been dispelled with the resumption of Iraqi oil sales and the firm prospect of incoming revenues shortly.

2. In addition to solving the problem of the operating costs of the Commission, this positive development will provide the needed relief to both the Iraqi people and to the innocent victims of Iraq's invasion of Kuwait, underlining once more the humanitarian dimension of this operation and opening the way to speed up the achievement of the Commission's final goals.

3. On the basis of the incoming resources generated by resolution 986 (1995), the Commission, during the first quarter of 1997 will make the payment of approximately $142 million to 63 Governments and one international organization for 56,000 successful claimants in the first instalments of categories A and C, in accordance with decision 17 of the Governing Council, which provides that each successful claimant will initially receive $2,500. The relevant data will be available to the Governing Council.

4. Anticipating these results, the Council's Committee on Administrative Matters approved in principle the draft budget for 1997 for an amount of $28.5 million and the United Nations Controller approved the extension for one year of the employment contracts of the staff of the United Nations Compensation Commission, thereby consolidating the stability and the morale of the secretariat.

5. The responses to the appeal that we addressed to the major claimant countries to secure the timely financing of the budget have greatly advanced and sustained these goals.

6. The Government of Kuwait has made a recoverable contribution of $5 million and the Government of the United States of America one of $3.3 million. Other Governments have informed us that they have contributions for immediate consideration. The receipt of the first revenues from the implementation of resolution 986 (1995) will allow us to reimburse very quickly all of these timely and encouraging expressions of support, and that could still speed up the early approval and implementation of the 1997 budget.

7. Turning to the processing of claims, the Governing Council has before it for its consideration two reports.

8. The Panel of Commissioners appointed to review the category C claims has completed its examination of the fourth instalment, and its corresponding report and recommendations are before the Council. This instalment of more than 71,000

* Previously issued as S/AC.26/1996/R.32.

claims from 51 Governments and three international organizations marks the completion of the resolution of approximately half of all category C claims.

9. The Council also has before it the executive summary and the report and recommendations of the Panel appointed to review the well blowout control claim filed by the Kuwait Oil Company. This executive summary provides information on the facts and contentions of the claim and the findings of the Panel, as well as the Panel's recommendations. The annex to the executive summary provides the full text of the report and recommendations of the Panel. Following the guidelines of the Council on ways and means to cut expenditures, the annex is available in one language only.

10. Regarding category A claims, and following the approval by the Council at its October session of the report of the Panel on the last instalment of such claims, the relevant Governments and international organizations have been provided with breakdowns of the amounts respectively awarded.

11. The category D, E and F Panels each held a preparatory meeting with the secretariat at the beginning of this month. Counting on the availability of the necessary resources, the three Panels are expected to start officially the review of category D, E and F claims during the first quarter of 1997 with the assistance of the required accountants and loss adjusters.

12. As requested by the Panel appointed to review the Egyptian workers claim, the Government of Iraq has recently submitted its comments in response to the submission filed by the Government of Egypt. This will allow the Panel to resume its work in the course of next year to decide on the merits of those claims found to be within the Commission's jurisdiction.

13. Article 16 report No. 17 was issued on 31 October 1996, bringing the total number of claims reported to over 2.6 million for a total amount sought of over $20.4 billion. Future reports will continue to focus on category D, E and F claims and will provide as an annex an updated list of the total claims approved by the Council.

14. Finally, and upon the Council's request, the secretariat has prepared a document on the distribution of awards to successful claimants in category B pursuant to decision 18, particularly with respect to the amounts that, for whatever reason, have not yet been distributed by the Governments or international organizations concerned.

15. Since this is the last regular meeting of the Council that I will attend in my capacity as Executive Secretary, I would ask the indulgence of the Council members to let me share a few personal reflections about the Commission and its future work.

16. The first one is that, by having established and implemented the largest compensation operation in history in record time and at minimum cost, the international community, acting through the United Nations, has confirmed the potential and capacity of the world organization to meet new and unprecedented challenges and to do it better than such operations performed outside its scope.

17. The Commission has also seen a precious display of unity of purpose and action. The fact that all the Council's decisions, without exception, have been adopted by consensus, that all of the Panels of Commissioners have also been appointed by consensus, that all of their recommendations have been reached unanimously and that all were also approved by the Council by consensus, confers on this Commission outstanding political, legal and moral credibility.

18. The Commission's operations also constituted a very democratic process in which no veto power was considered, all claimant countries were treated equally and, for the first time in history, an absolute priority was given to individual claimants, particularly the most deprived and needy, which added a significant humanitarian dimension to the Commission's work.

19. This operation has also been a demonstration of independence, impartiality, objectivity and professionalism, within the political framework given to the Commission and determined by historical circumstances and realities.

20. Within the scope of our competence, we have provided all the parties with the maximum possible guarantees of fairness and quality in all of the stages of our work. The first appointed Commissioner was a former President of the International Court of Justice. Such is a measure of the quality of the Panels, which were always chosen with a keen and balanced criteria of individual competence and geographical distribution.

21. During these five decisive years, in almost every Panel there has been an Arab or a Moslem Commissioner. We have given every country the opportunity to present its views to this Council whenever they wanted to do it. No Commissioner has ever been challenged on grounds of independence, origin, competence, integrity or for any other reasons whatsoever.

22. In fact, I am proud to say that the Commission has only received praise, support and encouragement from the almost 100 claimant Governments, as well as from the Security Council, the Secretary-General, the press and the claimants themselves. And it is significant that the newly selected Secretary-General, Mr. Kofi Annan, was closely associated with the inception of the Commission, provided its first operative administrative guidelines and discussed its early implementation with the secretariat at La Pelouse in November 1991, particularly on the status and prerogatives of the Commissioners and the establishment of the Compensation Fund.

23. Our operation has moved at a spectacular and unprecedented pace. Established only two and a half months after the end of the hostilities, the Governing Council had its first meeting two months later, during which I was also appointed. Less than six months later the first claim forms were distributed to all States members of the United Nations, and one month after that the first claims began to arrive. We have by today resolved most of the 2.6 million claims filed, and we have awarded over $5 billion in compensation to successful claimants from practically all of the claiming countries.

24. As far as the qualifications of the staff of the United Nations Compensation Commission are concerned, let me only quote the presentation that the Government of Iraq made to the Governing Council on 27 July 1996, in which

it noted that "the secretariat has, without doubt, highly qualified and competent legal staff". I know that others share this assessment and I am convinced that the same qualifications go also for the other sections of the secretariat.

25. It would have been perhaps better if the other concurrent processes, which in the final analysis determined the practical fate of this operation, had moved faster. There is a momentum to every historic event that should not be missed if it is to achieve its ultimate goals. But now we are finally seeing the light at the end of the tunnel, a long and dark tunnel that not only had budgetary effects for the Commission but threatened the accomplishment of its final mission.

26. As far as our responsibilities are concerned, this has indeed been a successful story. However, I firmly believe that to pass the final test of history the Commission still has to resolve definitely two pending issues: the achievement of full transparency and accountability, and the expansion and consolidation of the elements of due process that are already in play.

27. On the issue of confidentiality, I hope that the time will come when, in the same way that the Governing Council, the Panels of Commissioners and the secretariat have publicly stood by their respective responsibilities, all of the claimants will also openly stand by theirs. I realize and understand the political and psychological factors that still condition this possibility in particular cases, but I trust that with the evolution of the regional political environment that we see on the horizon, the Commission will be able to reach in time the goal of full and open accountability for all cases, particularly at this time when we begin to make the first substantial payments of compensation.

28. On the consolidation of the elements of due process I also believe that the Commission, which has already taken important steps in this direction and has the issue under consideration, will find ways to further encourage and facilitate the increased participation of the Government of Iraq in the Commission's activities, while preserving the necessary guarantees for the stability, advancement and success of this operation.

29. In a world of constant change that does not allow for static and rigid criteria and practices, the Commission needs to have under continuous observation these fluctuating and interconnecting scenarios in order to anticipate their evolution and the adjustments that they could require, if the Commission is to reach its final goals and to leave a legacy of realistic and tangible achievements.

30. I am not raising these two issues simply because I am leaving. I raised them in 1992, as delegations may recall, and again at the Council meeting last July.

31. I am firmly convinced that with the final fine tuning of these ultimate requirements, this United Nations compensation operation will pass into history as a model of effectiveness, correction and fairness in the delicate and difficult circumstances that led to its creation, and that its work, its rules

and its results will guide and shape the outcome of future compensation operations.

32. Let me finish by expressing my deep gratitude to the members of the Council for all of the support and the trust that you have bestowed upon me and the secretariat. It has been for me a rewarding professional and personal experience to work along with you in this extraordinary and fascinating worldwide enterprise.

33. I would also like to render appreciation and gratitude to the secretariat staff, beginning with the Deputy Executive Secretaries and my closest colleagues present here. The sense of commitment, devotion and unity of the United Nations Compensation Commission is, in my opinion, unique and has allowed us to keep the spirit of a family that we forged when we were less than 10 in number, even now when we are more than 10 times the original core group.

34. The rich variety of geographical, ethnic, cultural and linguistic origins within the staff of the Commission has served, as I intended, to centre and balance the work of the secretariat to meet the required high standards of independence, effectiveness and impartiality, which are expected from a United Nations operation.

35. And I would like to address my last words to you, Mr. President, to your mission and to the outstanding work of the Chairman of the Working Group, Mr. Milesi Ferreti.

36. To you, Mr. President, I would like to express my regard and admiration for your skilful and experienced leadership, and for your devotion to the responsibilities of the Presidency and to the success of this Commission. We had always the closest understanding and the friendliest cooperation and I will always cherish this personal and professional association with you.

37. Many thanks also to all of the staff of the United Nations Office at Geneva who have always assured the best service at these meetings and contributed to their success.

38. To leave when I am finally able to announce to dozens of claimant Governments and tens of thousands of their nationals our first substantial payments constitutes for me a gratifying sense of achievement and a joyful feeling of fulfilment that I so gratefully share with the Council, the Panels and the whole secretariat.

39. To all of you, dear friends, my deepest thanks and my best wishes.

Annex II

Decision concerning the fourth instalment of individual claims for damages up to US$ 100,000 (category "C" claims) taken by the Governing Council of the United Nations Compensation Commission at its 66th meeting, held on 17 December 1996 at Geneva**

The Governing Council,

Having received, in accordance with article 37 of the Provisional Rules for Claims Procedure (S/AC.26/1992/10), the fourth report of the Panel of Commissioners appointed to review individual claims for damages up to US$ 100,000 (category "C" claims), covering 71,703 individual claims,[1]

1. Approves the recommendations made by the Panel of Commissioners, and, accordingly;

2. Decides, pursuant to article 40 of the Rules, to approve the amounts of the recommended awards concerning the 70,558 claims covered in the report. The aggregate amounts per country or international organization, as listed in paragraph 11 of the report, are as follows:

** Previously issued as S/AC.26/Dec.39 (1996).

[1] The text of the report is contained in document S/AC.26/1996/4. In conformity with the provisions on confidentiality in the Provisional Rules for Claims Procedure (arts. 30, para. 1, and 40, para. 5), a table containing the breakdown of the amounts to be paid to each individual claimant will not be made public, but will be provided to each respective Government and international organization separately.

Summary of fourth instalment recommendations

Country	Number of claims recommended for payment	Amount of compensation recommended (United States dollars)
Algeria	2	23 763.09
Australia	8	122 481.32
Austria	2	28 397.02
Bahrain	1	20 328.64
Bangladesh	108	782 755.06
Bosnia and Herzegovina	1	43 231.56
Bulgaria	16	85 558.62
Canada	63	1 243 162.58
China	2	17 017.83
Croatia	4	23 009.59
Czech Republic	6	155 531.10
Denmark	9	219 836.74
Egypt	18 312	119 711 643.43
Ethiopia	22	64 316.37
Finland	1	9 300.00
Federal Republic of Yugoslavia (Serbia and Montenegro)	1	19 771.44
France	35	492 132.20
Germany	34	566 928.16
Greece	6	150 205.89
Hungary	8	123 238.70
India	5 869	44 834 752.51
Ireland	41	502 371.34
Italy	15	397 973.21
Japan	79	851 168.11
Jordan	2 385	23 857 531.37
Kenya	1	11 639.22
Kuwait	40 649	409 227 615.37
Lebanon	14	260 004.42

Summary of fourth instalment recommendations

Country	Number of claims recommended for payment	Amount of compensation recommended (United States dollars)
Mauritius	8	25 647.68
Morocco	3	37 083.44
Nepal	1	4 028.09
Netherlands	3	89 825.20
New Zealand	4	79 478.21
Nigeria	2	6 969.03
Pakistan	1 245	11 801 874.79
Philippines	219	712 314.51
Poland	27	243 154.44
Senegal	1	4 505.19
Slovakia	4	60 003.67
Somalia	1	4 117.65
Spain	3	77 922.94
Sri Lanka	1	15 743.94
Sudan	1	11 750.74
Sweden	6	153 091.31
Switzerland	1	7 384.86
Thailand	12	49 748.52
Tunisia	12	156 314.93
Turkey	152	1 257 021.33
United Kingdom of Great Britain and Northern Ireland	705	13 005 244.53
United States of America	428	5 542 379.86
Yemen	9	185 816.11
UNDP Jerusalem	3	94 379.67
UNDP Kuwait	1	6 394.46
UNDP Washington	1	15 138.41
UNDP Yemen	4	57 578.34
UNHCR Canada	4	62 414.01

Summary of fourth instalment recommendations		
Country	Number of claims recommended for payment	Amount of compensation recommended (United States dollars)
UNHCR Geneva	2	21 249.45
UNRWA Vienna	1	9 204.15
Total	70 558	637 643 444.35

3. Decides, pursuant to article 41 of the Rules, to approve the amounts of the corrected awards for seven claims from the first instalment and forty-two claims from the second instalment.[2] The aggregate amounts of the corrected awards per country as listed in paragraphs 12 and 13 of the report, are as follows:

First instalment corrections		
Country	Previous recommended award (United States dollars)	Corrected recommended award (United States dollars)
United Kingdom of Great Britain and Northern Ireland	5 329 138	5 322 359
United States of America	10 423 601	10 514 246
Federal Republic of Yugoslavia (Serbia and Montenegro)	661 219	616 860

[2] In conformity with the provisions on confidentiality in the Provisional Rules for Claims Procedure (arts. 30, para. 1, and 40, para. 5), a table containing the breakdown of the corrected amounts to be paid to each individual claimant will not be made public, but will be provided to each respective Government and international organization separately.

Second instalment corrections		
Country	Previous recommended award (United States dollars)	Corrected recommended award (United States dollars)
Egypt	132 012 193.12	131 970 764.32

4. Reaffirms that when funds become available payments shall be made in accordance with decision 17 (S/AC.26/Dec.17 (1994));

5. Recalls that, when payments are made in accordance with decision 17 and pursuant to the terms of decision 18 (S/AC.26/Dec.18 (1994)), Governments and appropriate authorities concerned shall distribute amounts received in respect of approved awards within six months of receiving payment, and shall, not later than three months after the expiration of this time limit, provide information on such distribution;

6. Decides that no compensation shall be awarded concerning the 1,145 claims referred to in paragraph 11 of the report;

7. Requests the Executive Secretary to provide copies of the report to the Secretary-General and copies of the report as well as the tables containing the breakdown of the amounts to be paid to each individual claimant to each respective Government and international organization.

Annex III

Decision concerning the well blowout control claim taken by the Governing Council of the United Nations Compensation Commission at its 66th meeting, held on 17 December 1996 at Geneva***

The Governing Council,

Recalling that the Panel of Commissioners for the well blowout control claim was appointed specifically in light of the claim's special nature and special circumstances,

Having received in accordance with article 38 of the Provisional Rules for Claims Procedure, the executive summary of the report and recommendations of the Panel of Commissioners appointed to review the well blowout control claim (the "executive summary"),[1]

1. Approves the recommendations made by the Panel of Commissioners and, accordingly;

2. Decides, pursuant to article 40 of the Rules, to approve the amount of the recommended award of US$ 610,048,547, as referred to in paragraph 45 (a) of the executive summary, to Kuwait Oil Company on behalf of Kuwait's public oil sector as a whole, without prejudice to adjustments, where necessary, that might be reached concerning allocation of costs after the review of other related Kuwait Oil Company claims;

3. Decides that the payment of claims in accordance with paragraph 6 of decision 17 (S/AC.26/Dec.17 (1994)) and future decisions of the Governing Council on the priority of payment and the payment mechanism are in no way affected by this decision;

4. Notes that, to the extent specified in paragraphs 45 (e), 45 (f), 45 (g) and 45 (h) of the executive summary, Kuwait Oil Company may amend its other claims before the Commission, for examination by the relevant Panels of Commissioners;

5. Decides that no compensation shall be awarded concerning the claims referred to in paragraphs 45 (c) and 45 (d) of the executive summary;

6. Requests the Executive Secretary to provide copies of the executive summary and its annex to the Secretary-General, to the Government of Kuwait and to the Government of Iraq.

*** Previously issued as S/AC.26/Dec.40 (1996).

[1] The text of the executive summary is contained in document S/AC.26/1996/5. For the annex containing the text of the Panel's report and recommendations concerning the well blowout control claim, see document S/AC.26/1996/5/Annex.